

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 122826-001**

**Blue Cross Blue Shield of Michigan**

**Respondent**

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**Issued and entered**  
**this 4<sup>th</sup> day of January 2012**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 10, 2011, XXXXX, on behalf of her minor daughter XXXXX(Petitioner), filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on August 18, 2011.

The Commissioner immediately notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and asked for the information it used to make its adverse determination. BCBSM responded on August 19, 2011.

The issue in this external review can be decided by a contractual analysis. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

**II. FACTUAL BACKGROUND**

The Petitioner has group health coverage as a dependent. Her benefits are set out in the BCBSM *Simply Blue HRA Group Benefits Certificate* (the certificate) and *Rider SB-HRA-ET \$250 Simply Blue HRA Emergency Treatment Copayment Requirement* (the rider).

On March 11, 2011, the Petitioner was seen in a hospital emergency room (ER) where she underwent tests and was released without being admitted to the hospital. BCBSM covered the ER visit and applied a \$250.00 emergency room treatment copayment.

The Petitioner appealed BCBSM's application of the emergency room copayment to her care. A managerial-level conference was held and BCBSM issued a final adverse determination affirming its decision on June 9, 2011.

### **III. ISSUE**

Did BCBSM correctly apply the emergency room treatment copayment?

### **IV. ANALYSIS**

#### **Petitioner's Argument**

The Petitioner was experiencing high alkaline phosphate levels and her family physician recommended that she go to the XXXXX XXXXX's Hospital (part of XXXX Health System) for more specialized treatment. According to the Petitioner's mother, the Petitioner's physician called XXXXX for instructions and was told to have the Petitioner go to the ER because it was the quickest way to get the necessary tests.

The Petitioner's mother states that she would not have taken the Petitioner to the ER if she had not been instructed to do so, and therefore she does not believe that the \$250.00 emergency treatment copayment should have been applied in this case.

#### **BCBSM's Argument**

BCBSM argues that emergency medical services are subject to the terms and conditions of the certificate and the rider - - the Petitioner received care in the ER and therefore the \$250.00 emergency treatment copayment applies.

#### **Commissioner's Review**

The rider amends the certificate by increasing the \$150.00 copayment for emergency room treatment:

**The "What You Must Pay" section and the "Outpatient Hospital Services That Are Payable" section of your certificate are amended by increasing the copayment for emergency room services as follows:**

You must pay a \$250 copayment per visit for facility services in a hospital emergency room for the initial examination and treatment of a medical emergency or accidental injury in the outpatient department of a hospital.

This copayment is applied to the hospital charges each time services are provided by a panel or nonpanel provider.

**NOTE:** The \$250 copayment will not be applied if the patient is admitted.

Under the terms of both the certificate and the rider, the ER copayment is waived if the patient is admitted to the hospital from the ER. However, there is no dispute that the Petitioner was not admitted to the hospital after her ER visit on March 11, 2011. There are no other circumstances where the copayment is waived.

It is not clear from the record that the Petitioner truly needed emergency care. The Petitioner's mother argues that she should not be responsible for the copayment because she only took her daughter to the emergency room on the advice of representatives of XXXXX XXXXX's Hospital. The Commissioner understands why the Petitioner feels aggrieved. Nevertheless, the certificate (p. 2.3) states that the copayment applies "for facility services in a hospital emergency room" and it is undisputed that the Petitioner received services in a hospital ER.

The Commissioner finds that BCBSM's applied the emergency room copayment to Petitioner's emergency care according to the terms of the certificate and the rider.

#### **V. ORDER**

The final adverse determination of June 9, 2011, is upheld. Blue Cross Blue Shield of Michigan is not required to waive the emergency treatment copayment.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, P.O. Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner